

Remarks

In the Office Action, the Examiner noted that claims 1, 3, 4, 6-9 and 11-34 (in fact there is also claim 35 presented in Applicants response of May 24, 2005) are pending in the application; claims 24 and 34 are withdrawn from consideration; claims 1, 3, 4, 7-9 and 11-15 are rejected; and that claims 6, 16-23 and 25-33 are objected to. By this amendment, claims 1 and 4 have been amended, and claims 24 and 34 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Thus, claims 1, 3, 4, 6-9, 11-23, 24-33 and 35 are pending in the application. No new subject matter has been inserted through these amendments. All of the amendments are fully supported by the specification. The Examiner's rejections are traversed below.

***Rejection Under 35 U.S.C. § 103(a)***

Claims 1, 3, 4, 7-9 and 11-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heinicke et al. (US 5,834,024) in view of Staniforth et al. (US 5,725,883).

Specifically, in maintaining the rejection the Examiner notes that the applicants response of May 24, 2005 setting forth the arguments are not persuasive. In particular, the Examiner states that "Staniforth is relied upon for a suggested disclosure that diltiazem can be formulated with cationic surfactant such benzalkonium chloride."

As noted above, Applicants have amended claim 1 to remove any reference to the use of a cationic surfactant. In addition, dependent claims 3, 4, 7-9 and 11-15 depend directly or indirectly upon claim 1 incorporating all of the limitations of claim 1 and recite additional limitations. Accordingly, it is respectfully submitted that claim 1, as amended, and claims 3, 4, 7-9 and 11-15 are patentably distinguishable from either Heinicke et al. taken alone or in combination with Staniforth et al. Thus withdrawal of rejection as to claims 1, 3, 4, 7-9 and 11-15 is respectfully requested.

Application Ser. No.: 10/019,588  
Filing Date: December 20, 2001  
Examiner: Fubara, Blessing M.

***Withdrawal of Rejection Under 35 U.S.C. § 103(a)***

Applicants note with much appreciation withdrawal of rejection of claims 1, 3, 4, 6-9, 11-23 and 25-33 (also claim 35) under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 6,403,597) based on the arguments presented by Applicants in their response of May 24, 2005.

***Claim Objections***

Claims 6, 16-23 and 25-33 (also claim 35) stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As noted above, claim 1 has been amended to delete the use of a cationic surfactant. As admitted by the Examiner, use of zwitterionic surfactants is not taught by any of the prior art. Furthermore, claim 6 is objected as being dependent upon the rejected base claim. However, as noted above, claim 1, as amended, is in condition for allowance, and therefore, it is submitted that dependent claims 6, 16-23 and 25-33 and 35 are also in condition for allowance, such an action is earnestly requested.

***Request to Enter into Record Previously Submitted Information Disclosure Statement***

Applicants submit concurrently herewith a supplemental IDS, consideration and entry of which is respectfully requested.

***Conclusions***

In view of the above Remarks, it is respectfully submitted that claims 1, 3, 4, 6-9, 11-23, 24-33 and 35 are now in condition for allowance and the early issuance of this case is respectfully requested. In the event the Examiner wishes to contact the undersigned regarding any matter, please call (collect if necessary) the telephone number listed below.

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As noted above, Applicants concurrently submit herewith a petition for two-month extension of time to make this submission timely. Applicants request the Commissioner to charge these fees and all other fees that are due to this submission to Deposit Account No. **18-1982** for Aventis Pharmaceuticals Inc. Bridgewater, NJ. Please credit any overpayment to Deposit Account No. **18-1982**.

Respectfully submitted,

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